

Corp. Tax Determinations

A-2

A-Drive Auto Leasing System

for

Mr. Edward Rook

Mr. Nigel Wright

A-Drive Auto Leasing System, Inc.

This is one of the pending corporation tax cases transferred to this office by the Law Bureau, on March 25, 1969.

I have reviewed the determination prepared by the Corporation Tax Bureau and I am in agreement with it.

/s/

NIGEL G. WRIGHT
NIGEL WRIGHT
Hearing Officer

March 31, 1969

NW:pw

ER

DEPARTMENT OF TAXATION AND FINANCE

MEMORANDUM

TO: Mr. Best
FROM: Mr. Doran
SUBJECT: A-Drive Auto Leasing System, Inc.

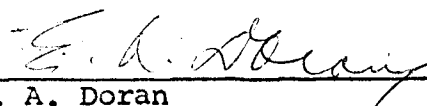
OFFICE

DATE December 14, 1967

DEC 15 1967

Attached is a proposed determination for the fiscal years ended January 31, 1961 through January 31, 1964 and a proposed decision for the fiscal year ended January 31, 1965.

Based on your August 29, 1961 memorandum to Mr. Valley on the subject of Gotham Auto Lease, Inc., the current portion of notes payable, which have a written maturity of more than one year, were not allowed as a deduction in computing business capital under Section 208.7 of the Tax Law.



E. A. Doran
Director

ATT.

STATE OF NEW YORK

THE STATE TAX COMMISSION

In the Matter of the Applications

of

A-DRIVE AUTO LEASING SYSTEM, INC.

For revision or refund of franchise
taxes under Article 9-A of the Tax
Law for the fiscal years ended
January 31, 1961 through January 31,
1964.

A-Drive Auto Leasing System, Inc., the taxpayer herein, having filed applications for revision or refund of franchise taxes under Article 9-A of the Tax Law for the fiscal years ended January 31, 1961 through January 31, 1964, and a hearing having been held in connection therewith at the office of the State Tax Commission in New York City on September 26, 1967, before William F. Sullivan, Hearing Officer of the Department of Taxation and Finance, at which hearing, Sydney Berg, C.P.A., appeared personally and testified, together with Irving Frederick, Esq., of Counsel, and the record having been duly examined and considered by the State Tax Commission,

It is hereby found:

(1) That the taxpayer was incorporated under the laws of New York State on February 3, 1958, and is engaged in the business of auto leasing;

(2) That on the basis of the reports filed and an examination by the tax commission's Mineola district office, taxes were audited or recomputed, as follows:

	<u>1/31/61</u>	<u>1/31/62</u>	<u>1/31/63</u>	<u>1/31/64</u>
Total Capital	\$2,613,426.00	\$2,151,414.00	\$1,892,188.00	\$1,839,980.00
Tax at 1 Mill	2,613.43	2,151.41	1,892.19	1,839.98
Penalty	848.41	662.48	391.01	179.74
Total	\$ 3,461.84	\$ 2,813.89	\$ 2,283.20	\$ 2,019.72

(3) That the taxes were audited or recomputed on May 14, 1965, and applications for revision or refund were filed on August 9, 1965;

(4) That in arriving at total capital, which consisted wholly of business capital, the current portion of notes payable which have a written maturity of more than one year were disallowed as a deduction;

(5) That for the years under review the taxpayer purchased automobiles most of which were leased to customers for a period of 24 to 26 months; that the purchase of each automobile was financed by a bank loan payable within 24 to 26 months; that the loan was payable at a stated monthly amount except for a final payment estimated at 40% of the residual or resale value of the automobile when it comes off lease and is disposed of; that for bookkeeping purposes, prepaid interest is computed for the entire period of the lease and is treated as a current asset and written off 1/24 or 1/26th per month;

(6) That Section 208.7 of the Tax Law reads, in part, as follows:

"The term 'business capital' means all assets, other than subsidiary capital, investment capital and stock issued by the taxpayer, less liabilities * * * which are payable by their terms on demand or within one year from the date incurred, other than loans or advances outstanding for more than a year as of any date during the year covered by the report * * * ."

Upon the foregoing findings and upon all of the evidence presented, it is hereby

DETERMINED:

(A) That the bank loans are not payable within one year from the date incurred and are not deductible as liabilities in computing "business capital" under Section 208.7 of the Tax Law;

(B) That prepaid interest be deducted from total capital to offset the amount thereof included in the liabilities disallowed in paragraph (A);

(C) That the taxes are resettled, as follows:

	<u>1/31/61</u>	<u>1/31/62</u>	<u>1/31/63</u>	<u>1/31/64</u>
Total Capital	\$2,613,426.00	\$2,151,414.00	\$1,892,188.00	\$1,839,980.00
Less Prepaid Interest	<u>169,765.00</u>	<u>140,894.00</u>	<u>104,197.00</u>	<u>121,854.00</u>
Adjusted Total Capital	2,444,661.00	2,010,520.00	1,787,991.00	1,718,126.00
Tax at 1 Mill	2,444.66	2,010.52	1,787.99	1,718.13
Adjusted Penalty	765.71	610.35	363.92	162.67
Total Resettled Tax	\$ 3,210.37	\$ 2,620.87	\$ 2,151.91	\$ 1,880.80

(D) That the resettled taxes do not include taxes or other charges which are not legally due.

Dated: Albany, New York

this 14th day of April 1969.

THE STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY

COMMISSIONER

/s/

A. BRUCE MANLEY

COMMISSIONER

/s/

MILTON KOERNER

COMMISSIONER

STATE OF NEW YORK

THE STATE TAX COMMISSION

In the Matter of the Petition

of

A-DRIVE AUTO LEASING SYSTEM, INC.

For a Redetermination of a
Deficiency or for Refund of Tax
under Article 9-A of the Tax Law
for the fiscal year ended January
31, 1965.

A-Drive Auto Leasing System, Inc., having filed a petition for redetermination of a deficiency or for refund of franchise tax under Article 9-A of the Tax Law for the fiscal year ended January 31, 1965, and a hearing having been held in connection therewith at the office of the State Tax Commission in New York City on September 26, 1967, before William F. Sullivan, Hearing Officer of the Department of Taxation and Finance, at which hearing, Sydney Berg, C.P.A., appeared personally and testified, together with Irving Frederick, Esq., of Counsel, and the record having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayer was incorporated under the laws of New York State on February 3, 1958, and is engaged in the business of auto leasing;

(1) That on the basis of a report filed and an examination by the tax commission's Mineola district office, a statement of audit adjustment was issued on July 3, 1967, as follows:

January 31, 1965

Total Capital	\$1,811,137.00	
Tax at 1 Mill	1,811.14	
Tax per CT-4	719.44	
Deficiency		\$1,091.70
Interest		79.80
Total		\$1,171.58

(3) That in arriving at total capital, which consisted wholly of business capital, the current portion of notes payable which have a written maturity of more than one year were disallowed as a deduction;

(4) That a Notice of Deficiency was mailed on July 19, 1967, and a Petition for Redetermination of Tax was filed on August 1, 1967;

(5) That the taxpayer purchased automobiles most of which were leased to customers for a period of 24 to 26 months; that the purchase of each automobile was financed by a bank loan payable within 24 to 26 months; that the loan was payable at a stated monthly amount except for a final payment estimated at 40% of the residual or resale value of the automobile when it comes off lease and is disposed of; that for bookkeeping purposes prepaid interest is computed for the entire period of the lease and is treated as a current asset and written off 1/24th or 1/26th per month;

(6) That section 208.7 of the Tax Law reads, in part, as follows:

"The term 'business capital' means all assets, other than subsidiary capital, investment capital and stock issued by the taxpayer, less liabilities * * * which are payable by their terms on demand or within one year from the date incurred, other than loans or advances outstanding for more than a year as of any date during the year covered by the report * * *."

Upon the foregoing findings and upon all of the evidence presented, the State Tax Commission hereby

Decides:

(A) That the bank loans are not payable within one year from the date incurred and are not deductible as liabilities in computing "business capital" under Section 208.7 of the Tax Law;

(B) That prepaid interest be deducted from total capital to offset the amount thereof included in liabilities disallowed in paragraph (A);

(C) That the notice of deficiency and statement of audit adjustment be and is hereby modified and the taxpayer's franchise tax for the fiscal year ended January 31, 1965 recomputed, as follows:

Total capital	\$1,811,137.00	
Less prepaid interest	<u>132,405.00</u>	
Adjusted total capital	\$1,678,732.00	
Tax at 1 Mill	1,678.73	
Tax per CF-4	719.44	
Deficiency		\$ 959.29
Interest		
Total		

(D) That, accordingly, the notice of a deficiency and statement of audit changes are hereby corrected and modified in accordance with paragraph (C) above, and as so modified, affirmed; that the same does not include tax or other charges which could not be lawfully demanded, and that taxpayer's petition for redetermination or for refund, except to the extent granted herein, is hereby denied.

Dated: Albany, New York

this 14th day of April 1969.

THE STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY

COMMISSIONER

/s/

A. BRUCE MANLEY

COMMISSIONER

/s/

MILTON KOERNER

COMMISSIONER